

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a
Japan corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawaii limited
liability company, et al.

Defendants

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD.,
a Delaware Corporation, et al.

AND CONSOLIDATED CASES

CV 04-00124 ACK-BMK

CV 04-00125 ACK-BMK

CV 04-00126 ACK-BMK

CV 04-00127 ACK-BMK

CV 04-00128 ACK-BMK

CONSOLIDATED CASES

DECLARATION OF
ROBERT A. MARKS

DECLARATION OF ROBERT A. MARKS

Pursuant to 28 U.S.C. § 1746, ROBERT A. MARKS states as follows:

1. I am an attorney licensed to practice law before this court.
2. I am counsel for the following defendants in the captioned consolidated actions: Kiahuna Golf Club, LLC, KG Kauai Development, LLC, Pukalani Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, QK Hotel, LLC, OR Hotel, LLC, and KG Holdings, LLC.
3. Attached hereto and marked exhibit U is a true and correct copy of excerpts of the transcript of proceedings on a status conference convened in the

captioned lawsuits before the Honorable Alan C. Kay, United States District Judge, on March 6, 2006.

4. Attached hereto and marked exhibit V is a true and correct copy Action by Written Consent of the Directors of Sports Shinko (Mililani) Co., Ltd., Certificate of Officer of Sports Shinko (Mililani) Co., Ltd., Action by Written Consent of the Sole Shareholder of Sports Shinko (Mililani) Co., Ltd. all dated January 18, 2002. These documents were produced by the KG parties in discovery in this litigation.

5. Formally and informally, beginning over a year ago, I have asked counsel for plaintiffs to 1) identify the specific promissory notes they are suing on in these consolidated cases, 2) produce copies of those promissory notes, and 3) make representations that the original promissory notes exist. To date, plaintiffs' counsel has not complied with my requests, but has suggested the original notes may have been destroyed and has refused to concede that the promissory notes do not exist.

6. Extensive discovery has been conducted in this case. Approximately 200 boxes of plaintiffs' documents have been made available to KG, including many thousands of documents in the Japanese language. There have been dozens of additional boxes produced by KG and various third parties. Six written discovery requests between KG and SS have been propounded and answered.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Honolulu, Hawaii on March 9, 2006.

/s/ Robert A. Marks
ROBERT A. MARKS